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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,686	12/03/2001	Adriano Huber	216597US2PCT	9492

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EXAMINER

BAYAT, BRADLEY B

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 10/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/926,686	Applicant(s) HUBER ET AL.	
	Examiner Bradley B. Bayat	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 8, 2005 has been entered.

Status of Claims

Applicant's amendment filed on July 6, 2005 is entered as follows:

- Claims 1-4, 7, 8, 10, 13, 16-19 and 20 are currently amended.
- Claims 23 and 24 have been canceled.
- Claims 1-22 remain pending.

Response to Arguments

Applicant's arguments with respect to claims 1 and 13 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs et al. (hereinafter Downs), U.S. Patent 6,226,618 B1 in view of publication by Zhao and

Tripathi (hereinafter Zhao), titled *Bandwidth-Efficient Continuous Media Streaming Through Optimal Multiplexing*, pp.13-22, published May 1999.

As per claim 1, Downs discloses a method for ordering and transmitting of digital objects comprising: transmitting an object order for digital media objects that comprises at least one object identification (figure 1b, 1d, 2 and associated text), transmitting data on a time at which an ordered media object is available by the center to any communications terminal, wherein the time is determined by the center and is stored in the communications terminal (column 6, line 35-column 8, line 54; column 40, lines 53-67; column 46, lines 10-61), automatically contacting, by the communications terminal the center at the stored time (column 58, lines 1-column 59, line 48), transmitting a media object assigned to the object identification by the center via a radio network to the communications terminal where it is stored in a memory and playing back, by a media playback module of the communications terminal, a media content contained in the stored media object (figures 1A-D; columns 6-8; figures 12, 13 and associated text). Downs does not explicitly disclose transmission of media objects at a time for optimal usage of resources. Zhao, however, teaches an efficient optimal resource usage technique that exploits both temporal and smoothing spatial multiplexing for optimal usage of resources during transmission of media objects (pp.13-14, 16-17, 20-22). It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Downs' media transmission technique and combine Zhao's optimal data multiplexing technique in order to provide content during optimal transmission times to accommodate the growing use of bandwidth for transmission of media objects and prevent bottlenecks and promote efficiency of data transfer, as per teaching of Zhao.

As per claim 2, Downs further discloses the method of claim 1, wherein prior to transmission to the communications terminal, the media content of the media object is encrypted with a first key, assigned to said media object, and the media content is decrypted by said first key prior to playback through the media playback module (figures 3-4 and associated text).

As per claim 3, Downs further discloses the method of claim 2 wherein media objects stored in a first said communication terminal are selected by the user of said first communications terminal and are transmitted to a second communications terminal, the media content of these media objects remaining encrypted (figure 1D and associated text; col. 12-14).

As per claim 4, Downs further discloses the method of claim 2, wherein the first key assigned to the media object, is transmitted encrypted, encrypted by a public second key, to the respective communications terminal and is decrypted in the respective communications terminal by a private third key, the pair of keys, of the public second key and the private third key, being assigned to the user of the respective communications terminal (figure 6 and associated text; col. 37-39, 44-46).

As per claim 5, Downs further discloses the method of claim 4, wherein data about conditions of use for the media object are also sent to the communications terminal separately or together with the first key assigned to this media object (figure 6 and associated text).

As per claim 6, Downs further discloses the method of claim 4, wherein for decryption of the media content of the media object, the decrypted first key assigned to this media object is transmitted in a protected way to a decryption module of the communications terminal (columns 12-14).

As per claim 7, Downs further discloses the method of claim 1, wherein the media objects include in each case indications about the center where the respective media object can be obtained (figure 1B and associated text).

As per claim 8, Downs further discloses the method of claim 2, wherein the media objects include in each case indications about a key server from which the encrypted first key can be obtained (figures 2-5 and associated text).

As per claim 9, Downs further discloses the method of claim 8, wherein a key obtaining module of the respective communications terminal automatically requests, receives and stores the encrypted first key in each case from the key server (figure 12 and associated text).

As per claim 10, Downs further discloses the method of claims 1 to 9, wherein the media objects include in each case indications concerning the media content of the media object, for example price information, title indications, playing duration or a sample playback (columns 48-49).

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As per claim 11, Downs further discloses the method of claims 1 to 10, wherein as payment for the playback of the media content of the media object a monetary amount assigned to this media object is debited against a prepaid monetary amount stored on a chip card of the respective communications terminal (columns 75-76).

As per claim 12, Downs further discloses the method of claims 1 to 11, wherein the number of playbacks of said media content of the media object is counted in the respective communication terminal and this number is transmitted to a license server (columns 59-60).

Claims 13-22 are directed to a device or terminal of the above claimed method and are therefore rejected on the same grounds (see above).

Although the Examiner has pointed out particular references contained in the prior art(s) of record in the body of this action, the specified citations are merely representative of the teachings in the art as applied to the specific limitations within the individual claim. Since other passages and figures may apply to the claimed invention as well, it is respectfully requested that the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley B. Bayat whose telephone number is 571-272-6704. The

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examiner can normally be reached on Tuesday - Friday 8 a.m.-6:30 p.m. and by email:

bradley.bayat@uspto.gov. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached regarding urgent matters at 571-272-6712.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(571) 273-8300 - Official communications; including After Final responses.

(571) 273-6704 - Informal/Draft communications to the examiner.

A handwritten signature in black ink, appearing to read "Bradley Bayat", with a long horizontal stroke extending to the right.

Bradley B. Bayat, Esq.
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Examiner